



ACKNOWLEDGMENTS

This White Paper on charter public school accountability in Missouri is the first in a series of papers published by the Missouri Charter Public School Association (MCPSA) to promote a better understanding of charter public schools and the important role they play in providing quality school options to Missouri public school students. It is based on both state law and standard, and is intended to provide an accessible, fact-based overview of the mechanics of charter school accountability in the state of Missouri.

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You can learn more about the Missouri Charter Public School Association at www.mocharterschools.org.



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OVERVIEW

UNDERSTANDING CHARTER PUBLIC SCHOOL ACCOUNTABILITY IN MISSOURI

Missouri's charter school accountability landscape is multi-layered. The State Legislature, the State Board of Education, charter sponsors, and charter school governing boards each play distinct roles in holding schools accountable. These roles are summarized below. A strong accountability environment helps ensure that Missouri's charter public schools deliver value to Missouri students and taxpayers.

The State Legislature

- **Drafts legislation** pertaining to public education, including charter public schools
- **Establishes roles and responsibilities** of different actors with respect to charter school accountability

The State Board of Education

- **Formulates regulations** for Missouri's charter school sector
- **Evaluates new sponsor applicants and existing sponsors** to ensure capacity and compliance
- **Approves new schools and charter renewals** to ensure compliance with law and regulations
- **Publishes annual report cards for charter schools** to facilitate evaluation of school performance

Charter School Sponsors

- **Maintain a comprehensive new school application process** for evaluating new charter applications
- **Negotiate contracts with charter schools** that clearly articulate the rights and responsibilities of each party
- **Conduct contract oversight** to evaluate performance, monitor compliance, and ensure autonomy
- **Design and implement a transparent and rigorous school evaluation process** to assess school performance
- **Make merit-based decisions on charter school renewals** based on comprehensive performance data

Charter School Governing Boards

- **Contract** with the school sponsor
- **Are accountable** for school performance
- **Govern the school** in fidelity to the school charter and in compliance with local, state and federal law

For more information about charter public school accountability in Missouri, please refer to MCPSA'S White Paper on Understanding Charter Public School Accountability in Missouri.

GLOSSARY OF TERMS

- 1. Accountability.** Accountability is one-half of the charter public school “grand bargain” of autonomy for accountability. In exchange for autonomy (the ability to self-govern), each charter school is held individually responsible for its academic performance, the expectations for which are laid out in the school’s contract, or charter. Failure to meet the terms of the charter contract can lead to school closure.
- 2. Access.** A core tenet of charter public schools, and public school choice more broadly, is the idea that *all students*, irrespective of race or ethnicity, family income or geography, deserve the opportunity to attend great public schools.
- 3. Authorizer.** The entity that gives official approval to, regulates and conducts evaluations of charter sponsors. In Missouri the State Authorizer is the State Board of Education.
- 4. Autonomy.** Autonomy is the ability to self-govern - charter schools are autonomous, or self-governing, schools. In charter schools, decisions about key resources - staffing, curriculum, finances, and how time during the school day is spent - are made at the school level, closer to students. In exchange for this flexibility, each charter school is held individually responsible (accountable) for its performance, and can be closed for underperformance.
- 5. Charter Application.** Each Missouri charter sponsor must develop and implement a comprehensive application process for soliciting and evaluating new charter school applicants. Setting forth stringent requirements for charter approval and new school openings helps ensure that only the most qualified charter applicants are able to start new schools, reducing the likelihood of school remediation and closure down the road. Each charter sponsor must develop a charter application that allows for rigorous evaluation of the applicant’s plans and capacity, clearly articulates the sponsor’s chartering priorities, and includes clear criteria for the evaluation of the charter application.
- 6. Charter Contract.** The charter contract, or charter, is the legal contract negotiated by the sponsor and the charter school’s governing board following approval of the school’s charter application. It is the bedrock of the charter school model. The charter contract articulates the rights and responsibilities of each party regarding charter school autonomy, expected outcomes, measures for evaluating success or failure, and performance consequences.
- 7. Charter Public School.** Charter schools are independent, self-governing public schools. In Missouri, charter schools are organized as Missouri nonprofit corporations, with self-determining boards subject to both nonprofit law and the laws governing government bodies in the conduct of public business (Missouri Sunshine Law).
- 8. Charter Renewal.** A charter renewal is the extension of validity of the charter contract for a specified period of time (usually 5 to 10 years, depending on school performance). Charter sponsors grant renewals to charter schools that have achieved the performance expectations a



viable, and have been diligent to the terms of the contract and applicable law. The State Board has the authority of final approval over a sponsor's decision to renew - or non-renew - an existing school's charter contract.

- 9. Charter School Governance Board.** As autonomous public schools, each charter school has its own governing board. Charter governing boards are legally responsible for charter school performance: they negotiate and execute the contract with the school sponsor and govern the school in fidelity to the charter contract and in compliance with federal, state, and local laws and regulations. Charter school boards are subject to both charter law and laws governing nonprofit organizations in the state of Missouri. Because charter schools are organized as non-profit entities, charter school boards are self-determining - board members are appointed, not elected.
- 10. Charter Sponsor.** Charter Sponsors oversee charter school performance to ensure schools are meeting the performance expectations laid out in their charter. Charter sponsors evaluate and approve new charter school applications, negotiate performance contracts with school governing boards and conduct school oversight. Sponsors make merit-based decisions on charter renewal, remediation, revocation and closure. In conducting their work they are accountable to the State Board of Education.
- 11. Closure.** School closure occurs when a charter school is not meeting its performance obligations. Closure is the result of the charter sponsor's decision, following a rigorous and comprehensive evaluation of school performance, to either non-renew or revoke the school's charter. Closure can also result from a school governing board's decision to voluntarily relinquish, or give up, the charter.
- 12. State Board of Education.** Under the Missouri Constitution, the State Board of Education (SBOE) has general authority for public education within the state. The Board is made up of eight citizens who are appointed by the Governor and confirmed by the Senate. Board members serve eight-year staggered terms. 1998 charter legislation establishes the SBOE as the State Authorizer of charter schools - the entity that gives official approval to, regulates and conducts evaluations of charter sponsors and charter schools.



CHARTER PUBLIC SCHOOL ACCOUNTABILITY IN MISSOURI

This White Paper on Charter School Accountability is the first in a series of papers produced by the Missouri Charter Public Schools Association (MCPSA) to educate lawmakers, city leaders, decision makers and community members on Missouri charter public schools and the vital role they play in creating quality public school options for all Missouri students.

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INTRODUCTION

Just over twenty years ago, in the Fall of 1999, the first charter public schools opened in Missouri.

The idea behind this new self-governing, independent public school model was greater flexibility in exchange for greater accountability.¹ In these new schools, decisions about key resources - curriculum, staffing, budget, and how time during the school day is spent - would be made at the school level, closer to students. Fewer layers of bureaucracy between decision makers and students would enable these schools to be more agile and responsive to student, teacher and community needs. It would also enable them to be more innovative, trying different and novel approaches in educating students.

In exchange for this autonomy, or ability to self-govern, charter schools would be held accountable for their performance by their own non-profit governance board, their charter school sponsor and, ultimately, the Missouri State Board of Education. If they did not meet the performance expectations laid out in their charter contract, they would close.

Demand for this new approach to K-12 public schooling was immediately evident. In Kansas City, 4,315 students enrolled in 15 charter schools in Fall 1999 - 12 percent of all public K-12 enrollment within Kansas City Public Schools (KCPS) boundaries. In St. Louis the following year, 1,330 K-12 students enrolled in three charter public schools - 3% of all public K-12 enrollment.²

Fast forward 20 years and charter public schools now educate 50% of all K-12 public school students within KCPS boundaries,³ and nearly 40% of students in St. Louis.⁴ A growing number of families are choosing charter schools to educate their children.

¹ National Association of Charter School Authorizers (NACSA): [Authorizing Basics: What is a Charter School?](#) (last visited 6/21/21).

² Due to a legal challenge by St. Louis Public Schools (SLPS), charter schools did not open in St. Louis until Fall 2000. 41,988 students enrolled in SLPS and St. Louis charter public schools in the 2000-01 school year.

³ In Kansas City, 13,180 K-12 students enrolled in KC Charter Public Schools in 2020-21, out of 26,523 total K-12 students.

⁴ In St. Louis, 11,730 K-12 students enrolled in STL Charter Public Schools in 2020-21, out of 29,968 total K-12 students.



This White Paper explores the role of accountability in Missouri’s charter public school sector. It is intended to serve as a comprehensive yet accessible primer, based on state law and regulation, for those seeking to better understand the roles and responsibilities of different actors in holding charter public schools accountable.

ACCOUNTABILITY, AUTONOMY, ACCESS: CHARTER SCHOOL GUIDING PRINCIPLES

In the early 1990s, a small group of educators and policymakers came together to develop an innovative school model designed to help improve public schools and offer parents public school options to better meet their child’s specific needs. This model became known as the charter school model.

This new school model was rooted in the belief that public schools should be held **accountable** for student learning. In exchange for this accountability, school leaders would be given the **autonomy**, or freedom, to try new approaches in educating students. They would then share what works with the broader public school system, and all students would benefit.

The charter public school model was also rooted in the belief that all students, irrespective of race or ethnicity, family income or zip code deserved **access** to quality public school options.

Utilizing this innovative school model as a blueprint, Minnesota’s state legislature passed the first charter law in 1991. In 1998, Missouri became the 34th state to pass charter school legislation, with the first schools opening in Kansas City the following year.

HOW ARE CHARTER SCHOOLS HELD ACCOUNTABLE IN MISSOURI?

The idea of school-level accountability is one of chartering’s most significant contributions to public schooling. Under the charter public school model, no school has the “right” to operate in perpetuity; rather, a school must “earn” the right to stay open by demonstrating, through evaluations conducted at regular intervals, that it is meeting the performance expectations outlined in its charter, or contract.

Missouri’s charter school accountability landscape is multi-layered, with the State Legislature, the State Board of Education, charter sponsors, and charter school governance boards each playing distinct roles:

- I. **The State Legislature** is responsible for creating laws that govern the state, including laws that pertain to charter public schools. Initial charter legislation passed in 1998 established the roles of the State Board, sponsors and charter school governing boards in promoting charter school accountability.



- II. **The State Board of Education (SBOE)** is the architect of Missouri’s charter accountability environment, developing the regulations that guide oversight and evaluation of charter sponsors and school operators. The State Board is also chief accountability agent of the sector, publishing annual performance reports for individual charter schools and holding charter sponsors accountable through regularly-conducted performance evaluations.
- III. **Charter Sponsors** oversee charter school performance to ensure schools are meeting the performance expectations laid out in their charter - the legal contract between the sponsor and the charter school governing board. Charter sponsors are responsible for evaluating and approving new charter school applications, negotiating performance contracts with school governing boards and conducting school oversight. Sponsors make merit-based decisions on charter renewal, remediation, revocation and closure.
- IV. **Charter School Governing Boards** contract with the charter sponsor and are legally responsible for charter school performance. This includes formulating school policy and conducting financial management and operational oversight. As self-governing schools, each charter school has its own governing board.

Drawing on both Missouri state law and regulations, this paper summarizes the roles and responsibilities of each of these actors in promoting a strong accountability environment to support Missouri’s charter public school sector.

I. THE MISSOURI STATE LEGISLATURE

Elected by Missouri voters, the Missouri state legislature is responsible for creating laws that govern the state. This responsibility includes creating laws that ensure Missouri families have access to quality public school options.

The state legislature passes laws specifically pertaining to public education, including charter schools. Initial charter legislation passed by the General Assembly in 1998:

- 1) Defines **what charter schools are, where they can operate**, and the types of entities that can sponsor a charter school
- 2) Specifies that charter schools should be **organized as Missouri nonprofit corporations**, with self-determining boards subject to both nonprofit law⁵ and the laws governing government bodies in the conduct of public business (Missouri Sunshine Law)⁶
- 3) Articulates **the roles and responsibilities** of the State Board of Education, charter sponsors, and governing boards in promoting charter school accountability⁷

⁵ RSMo. §160.400.7: “The charter school should be organized as a Missouri nonprofit corporation incorporated pursuant to Chapter 355.”

⁶ RSMo. §160.400.8: “Meetings of the governing board should be subject to the provisions of 610.010 to 610.030.”

⁷ For a more complete history on charter public schools in Missouri, see: Douglas P. Thaman, Ed.D., [Missouri Charter School History](#), MISSOURI CHARTER PUBLIC SCHOOLS ASSOCIATION, 2014.



The Joint Committee on Education, a statutory committee within the General Assembly⁸ that reviews and monitors the progress of education in the state’s public schools,⁹ is responsible for reviewing the annual reports of charter sponsors to ensure they are in compliance with state law.¹⁰

State lawmakers are accountable to voters through regular elections.

II. THE STATE BOARD OF EDUCATION

Under the state’s Constitution, the State Board of Education (SBOE) has general authority for public education within Missouri.¹¹ The Board is made up of eight citizens who are appointed by the Governor and confirmed by the Senate. Board members serve eight-year staggered terms.¹²

1998 charter legislation establishes the SBOE as the State Authorizer of charter schools - the entity that gives official approval to, regulates and conducts evaluations of charter sponsors and charter schools.

As State Authorizer the State Board is both architect of Missouri’s charter accountability environment, and chief accountability agent. The SBOE is responsible for:

- 1) **Formulating regulations**¹³ to guide Missouri’s charter sector
- 2) **Evaluating new sponsor applicants and existing charter sponsors** to ensure performance criteria in both statute and regulations are met. This evaluation authority entails sanctioning sponsors, or removing sponsorship authority, as needed
- 3) **Granting final approval** to new schools and charter renewals¹⁴
- 4) **Calculating and publishing annual report cards** for individual charter schools, to facilitate the charter school sponsor’s evaluation of school performance¹⁵

The State Board of Education is accountable to the Governor of Missouri and the state legislature. The State Board is supported by the Department of Elementary and Secondary Education (DESE), which both staffs and advises the State Board in conducting its work.

⁸ Joint Committees are committees made up of both members of the House and members of the Senate. Statutory Committees are committees established by law.

⁹ See generally, [MISSOURI JOINT COMMITTEE ON EDUCATION](#)

¹⁰ RSMo. §160.400.12: “Sponsors receiving funds under subsection 11 of this section shall be required to submit annual reports to the joint committee on education demonstrating they are in compliance with subsection 17 of this section.”

¹¹ See MO DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION: [About the State Board](#)

¹² *Id.*

¹³ Regulations are rules and directives made and maintained by an authority, in this case the State Board of Education.

¹⁴ RSMo. §160.405.3

¹⁵ RSMo. §160.405.15



1. Formulating Regulations. As State Authorizer of charter schools, the SBOE is responsible for developing the regulations that guide Missouri’s charter school sector.¹⁶ These regulations include the Standards for Charter Sponsorship, which provide the foundation for both the application and evaluation processes for charter school sponsors.¹⁷

The “Standards for Charter Sponsorship”¹⁸ lay out the State Board’s expectations of sponsors’ role in promoting charter school accountability and compliance in six main areas:

MISSOURI STANDARDS FOR CHARTER SPONSORSHIP

<p>1) Sponsor Commitment and Capacity</p> <p>2) Application Process and Decision Making</p> <p>3) Charter Contract</p>	<p>4) Ongoing Oversight and Evaluation</p> <p>5) Fiscal Oversight</p> <p>6) Renewal, Replication, Expansion and Revocation</p>
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Each of the six sponsorship standards is accompanied by a summary overview and a detailed explanation of what is required of sponsors to meet the Standard criteria.

Sponsorship Standard 4 - Ongoing Oversight and Evaluation, outlines what is required of sponsors in this realm:

Standard 4: Ongoing Oversight and Evaluation.¹⁹ The sponsor conducts charter school oversight that evaluates charter school performance; monitors charter school compliance with both federal and state statutes and regulations; ensures charter school autonomy; protects student rights; informs charter school intervention, probation, revocation, and renewal decisions; and provides annual public reports on charter school performance. The sponsor shall—

(A) Implement a comprehensive performance accountability and compliance monitoring system that -

1. Is defined in the charter contract
2. Provides the sponsor with the information necessary to make thorough and evidence-based intervention, probation, renewal, non-renewal, and revocation decisions; and

¹⁶ Other regulations developed by SBOE/DESE that guide charter practice include: 5 CSR 20-100.265 Charter School Closure; 5 CSR 20-100.270 Charter Sponsorship Inflation Adjustment; 5 CSR 20-100.280 Charter School Expedited Renewal Application Process. These rules and regulations can be accessed via the [Missouri Secretary of State website](#).

¹⁷ RSMo. §160.400.17(1): “The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate.”

¹⁸ See appendix for complete Standards of Charter Sponsorship.

¹⁹ 5 CSR 20-100.260, DESE Standards for Charter Sponsorship, Standard 4 – Ongoing Oversight and Evaluation

3. Effectively streamlines federal, state, and local performance expectations and compliance requirements while protecting charter school autonomy and minimizing charter school administrative and reporting burdens

(B) Define and communicate this performance accountability and compliance monitoring system to charter schools, including the process, methods, and timing of gathering and reporting charter school performance and compliance data;

(C) Visit each charter school as appropriate and necessary for collecting data that cannot otherwise be obtained and in accordance with the contract, while ensuring that the frequency, purposes, and methods of such visits respect charter school autonomy and avoids operational interference;

(D) Communicate regularly with charter schools, as needed, including both school leaders and governing boards, and provide timely notice of contract violations, performance deficiencies, and mandated interventions, including probationary status

(E) Evaluate and publish on the sponsor's website an annual performance report for each charter school, which shall include an analysis of each charter school's performance and progress toward meeting the expectations and targets stated in the charter contract, including subgroup performance and essential compliance requirements, and clearly communicate evaluation results to the charter school's governing board and leadership;

(F) Refrain from directing charter school decisions or choices that are appropriately within a school's purview under the charter law or contract.

Standard 4 goes on to address the monitoring of compliance with all state and federal requirements and guidelines regarding service to students (G); oversight of enrollment and admissions processes (I, J); the charter board's compliance with various laws (K); and ensuring charter board members awareness and access to professional development and training opportunities (L).

Collectively, these Standards of Charter Sponsorship provide a blueprint, or playbook, for sponsors regarding their roles and responsibilities as charter sponsors.

2. Evaluating New Sponsor Applicants and Existing Charter Sponsors. The State Board of Education determines who is eligible to sponsor charter schools, and who may continue to sponsor charter schools, through its evaluation processes for both new sponsor applicants and existing sponsors.

Evaluating New Sponsor Applicants. State statute dictates the type of organizations and institutions that are eligible to become charter sponsors.²⁰ It also dictates the process and content of a new sponsor

²⁰ RSMo. §160.400.3

application. Interested eligible sponsors have the opportunity, once a year, to submit an application that includes:

- 1) Written notification of intent to serve as a charter school sponsor
- 2) Evidence of budget and sponsor capacity
- 3) An outline of the Request for Proposal that the applicant sponsor would, if approved, issue to solicit charter school applicants
- 4) The performance contract the applicant sponsor would, if approved, use to evaluate the schools it sponsors
- 5) The applicant sponsor's renewal, revocation, and nonrenewal processes²¹

Standards for Charter Sponsorship provide more detail and specify additional criteria that new sponsor applicants must meet to become sponsors.²² For applicants that are approved by the State Board, the Department of Elementary and Secondary Education executes a six-year, renewable sponsorship contract.²³

Evaluating Existing Sponsors. The most important lever the SBOE has to ensure sponsor performance, decision making and compliance over time is the authority to evaluate sponsor performance. The State Board determines, based on this evaluation, whether the sponsor's authority to sponsor schools should be renewed, remediated or removed.

By law, SBOE evaluations of charter sponsors must be conducted every three years:

"The state board shall evaluate sponsors to determine compliance with these standards every three years. The evaluation shall include a sponsor's policies and procedures in the areas of charter application approval; required charter agreement terms and content; sponsor performance evaluation and compliance monitoring; and charter renewal, intervention, and revocation decisions. Nothing shall preclude the department from undertaking at any time for cause."²⁴

The current sponsor evaluation framework was developed by the Department of Elementary and Secondary Education in collaboration with school sponsors and national experts. Evaluations are conducted by DESE, with findings presented to the State Board.

Based on these findings, the State Board makes a decision of:

- 1) **Renewal:** The sponsor is found to be in full compliance with statute and standard.

²¹ RSMo. §160.403.2

²² The SBOE has authorized one new sponsor, the Kansas City Public Schools district, since 2012.

²³ RSMo. §160.403.4

²⁴ RSMo. §160.400.17(1)

- 2) **Remediation:** The sponsor is found to be in “material noncompliance”²⁵ with statute and/or standard and given “reasonable time for remediation” to address sponsorship deficiencies.²⁶
- 3) **Corrective Action:** If remediation does not address the compliance issues, corrective action may be recommended, such as withholding sponsor funding or suspending sponsorship authority.²⁷
- 4) **Removal of sponsorship authority:** The authority to sponsor charter schools is removed.

If, after a sponsor has been found to be in material noncompliance, its remediation efforts are insufficient, the State Board has the power to take corrective action by withholding funding and/or suspending sponsorship authority to new or existing schools.²⁸

3. Approving new schools and charter renewals. As State Authorizer, the State Board has final approval over both the decision a sponsor has made to approve the opening of a new charter school or to renew an existing school’s charter.

When a new charter school is approved by a sponsor, the school’s charter application must be submitted by the sponsor to the State Board, which has 60 days to approve or deny the application based on whether a) the application meets the requirements laid out in state charter law and b) the sponsor has met its requirements as a charter sponsor under the law.²⁹ Once negotiated, new charter contracts are approved for an initial term of five years.³⁰

The State Board also has the authority of final approval over a sponsor’s decision to renew - or non-renew - an existing school’s charter contract, based on whether the sponsor is in compliance with law and standard and the school meets renewal objectives under statute.³¹ The State Board and DESE must adhere to statute in making these decisions.³² Renewals are granted for a five-year period or, in the case of schools who meet the definition of “high quality” under state law, for up to ten years.³³

²⁵ Material noncompliance exists when a party exhibits a continual pattern of noncompliance, or when a party demonstrates an inability or an unwillingness to resolve any noncompliance matter in a timely manner.

²⁶ “Reasonable time” is not defined by statute - and is thus determined by the SBOE.

²⁷ RSMo. §160.400.17(2)

²⁸ *Id.*

²⁹ RSMo. §160.405.3: “The SBOE may deny a charter on grounds that the application fails to meet the requirements of sections 160.400 to 160.425 and section 167.349 or that a charter sponsor previously failed to meet the statutory responsibilities of a charter sponsor.”

³⁰ 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 3 – Charter Contract (A); RSMo. §160.405.1(9)

³¹ RSMo. §160.405.9(3)(d): “If a charter school sponsor demonstrates the objectives identified in this subdivision, the state board of education shall renew the school’s charter.”

³² Ashley Jost, [Gordon Parks Elementary Court Battle Could Indicate Future Legislative Involvement](#), (The Missouri Times), July 30, 2013.

³³ RSMo. §160.408.3



4. Calculating and publishing annual report cards for individual charter schools. The State Board, supported by the Department of Elementary and Secondary Education, is also responsible for calculating and publishing an annual performance report (APR) for each charter school in the same manner that these reports are calculated and published for school districts and district school buildings.³⁴

The APR is a criterion used to determine where charter schools are permitted to operate,³⁵ whether or not a school meets the designation of “high quality” under state law,³⁶ and whether or not a school is eligible for an expedited charter renewal process.³⁷ It is also included in the monitoring plan under which charter sponsors evaluate the academic performance of students enrolled in the charter school,³⁸ and is used to determine performance consequences in charter school contracts.³⁹

III. CHARTER SPONSORS

In Missouri, charter sponsors are responsible for ensuring that charter schools uphold their contractual obligations laid out in the school’s charter contract. The following types of organizations are eligible to sponsor charter schools, pending approval of their sponsorship application:

- **The school board of a district**, in any district which is sponsoring a charter school
- **Public four-year colleges or universities** with approved teacher education programs that meet regional or national accreditation standards
- **A community college**, the service area of which encompasses some portion of the district
- **Private four-year colleges or universities** with over 1000 students that are based in Missouri and have an approved teacher preparation program
- **Any two-year private vocational or technical school** that is a 501(c)3 nonprofit organization and has its primary campus in Missouri⁴⁰
- **The Missouri Charter Public School Commission**, created by law in 2012⁴¹

Under statute, approved charter sponsors are responsible for:

³⁴ RSMo. §160.405.15

³⁵ RSMo. §160.400.2(4)

³⁶ RSMo. §160.408.1(1)

³⁷ RSMo. §160.405.9(d)

³⁸ RSMo. §150.405.3

³⁹ RSMo. §160.400.11(3)

⁴⁰ RSMo. §160.400.3

⁴¹ RSMo. §160.425: The Missouri Charter Public School Commission was created by statute “to sponsor high quality charter schools throughout the state of Missouri.” The Commission is composed of nine members appointed by the governor, by and with the advice and consent of the senate. While subject to the same laws and standards as other Missouri charter sponsors, the Commission was not subject to the new sponsor application process. RSMo. §160.403.2(3). “In the event that the SBOE removes the authority to sponsor a currently operating charter school under any provision of the law, the Missouri Charter Public School Commission becomes sponsor of the school” RSMo. §160.425.17(4).



- 1) **Maintaining a comprehensive new school application process** for evaluating new charter applications
- 2) **Negotiating contracts** with charter schools that clearly articulate the rights and responsibilities of each party
- 3) **Conducting contract oversight** to evaluate performance, monitor compliance, and ensure autonomy
- 4) **Designing and implementing a transparent and rigorous school evaluation process** to make merit-based renewal decisions⁴²
- 5) **Making merit-based decisions on charter school renewals** using comprehensive performance data

In conducting all of this work, sponsors must also **protect charter school autonomy**, or their ability to self-govern.

Charter sponsors are accountable to the State Board of Education and are evaluated by the State Board according to a comprehensive performance framework every three years.⁴³

1. Maintaining a comprehensive new school application process. Each Missouri charter sponsor must develop and implement a comprehensive application process for soliciting and evaluating new charter applicants.⁴⁴ Setting forth stringent requirements for charter approval and new school openings helps ensure that only the most qualified charter applicants are able to start new schools, reducing the likelihood of school remediation and closure down the road.

According to Standard: “The sponsor shall...develop and make readily available a charter application that:

- **Includes comprehensive questions** to elicit the information needed for a rigorous evaluation of the applicant’s plans and capacity
- **Clearly articulates any chartering priorities** the sponsor may have established, including the priority to serve high risk students
- **Includes clear criteria** for the evaluation of charter applications⁴⁵

⁴² RSMo. §160.400.11

⁴³ RSMo. §160.400.17(1)

⁴⁴ 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 2 - Application Process and Decision Making: “The sponsor implements a comprehensive application process that includes clear application materials and guidance; follows fair, transparent procedures, timelines and rigorous evaluation criteria; and approves only those charter applications that demonstrate a strong capacity to establish and operate quality charter schools.”

⁴⁵ *Id.* at Standard 2(B)2 - Application Process and Decision Making



Sponsors evaluate applications from prospective schools based on this comprehensive process and grant charters only to qualified applicants who demonstrate a strong capacity to establish and operate quality schools.

For charter applications that are denied,⁴⁶ sponsors must promptly notify the applicant in writing explaining the factors that determined the decision.⁴⁷

2. Negotiating contracts with charter schools. The charter contract articulates the rights and responsibilities of each party regarding charter school autonomy, expected outcomes, measures for evaluating success or failure, and performance consequences.⁴⁸ It is negotiated and executed by the charter sponsor and charter school governing board after sponsor approval of the charter application.

The charter contract is the bedrock of the charter school model. It defines the standards for intervention, probation, renewal, non-renewal, and revocation, as well as the consequences for not meeting those standards. It includes a set of reasonable pre-opening requirements or conditions for opening to ensure that new schools meet all health, safety, and other legal requirements prior to opening. And it lays out the process that charter schools and sponsors must follow to amend charter contracts and the types of material modifications that require sponsor approval.⁴⁹

The charter contract also includes a performance contract.⁵⁰ This contract includes clearly defined performance expectations for all students and student subgroups, financial performance expectations (measuring both near and long-term financial health); and organizational performance expectations, including compliance with all governance-related laws, the fulfillment of all state and federal requirements regarding fair and appropriate service to students with disabilities, and the maintenance of a safe and operationally sound facility.⁵¹

3. Conducting contract oversight. Strong charter school accountability depends on rigorous contract oversight.

Oversight begins with monitoring of a new charter school’s pre-opening activities and continues throughout the duration of the charter contract, culminating in the charter renewal process.⁵²

⁴⁶ RSMo. §160.405.2(4): “If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor’s written reasons for its denial. If the state board determines that the application meets the requirements of this section, that the applicant is sufficiently qualified to operate the charter school, and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school.”

⁴⁷ 5 CSR 20-100.260, Standard 2(K) - Application Process and Decision Making

⁴⁸ *Id.*, Standard 3 - Charter Contract

⁴⁹ *Id.* at Standard 3(A)3 - Charter Contract

⁵⁰ RSMo. §160.405: “The charter should include a legally binding performance contract that describes the obligations and responsibilities of the school and the sponsor.”

⁵¹ 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 3(B)3 - Charter Contract

⁵² RSMo. §160.405.1(11)



Sponsors review schools’ academic, fiscal and operational performance on an annual basis. They monitor school compliance with both federal and state statutes and regulations. When schools are out of compliance, sponsors conduct interventions or suggest remedial action to ensure compliance.

They protect student and school rights by ensuring roles and responsibilities are upheld according to contract terms.

And sponsors monitor charter board compliance with governance-related laws, including: retention of necessary board records, submission of financial interest statements, maintenance of conflict-of-interest policies and procedures, maintenance of policy to address parent or guardian grievances, and conducting board and committee work in adherence with Missouri’s Open Records and Meetings (Sunshine) Law.^{53 54}

In conducting this work, sponsors communicate regularly with charter school leaders and governing boards and provide timely notice of contract violations, performance deficiencies, and mandated interventions, including probationary status.⁵⁵

Ongoing contract oversight informs school intervention, probation, revocation and renewal decisions.

Sponsors may revoke a charter at any time during the charter term if there is clear evidence of underperformance or violation of law or the public trust that imperils students or public funds.⁵⁶

4. Designing and implementing a transparent and rigorous school evaluation process. Ongoing contract oversight culminates in a more comprehensive evaluation process, conducted by the charter sponsor prior to the expiration of the school’s charter. This evaluation process ultimately leads to the sponsor making a merit-based decision on whether the school should continue operating, close or face some type of remediation.

The charter renewal process, which occurs every five to ten years depending on the length of the school’s charter, is based on a thorough analysis of a comprehensive body of objective evidence. It takes into account whether:⁵⁷

- The charter school has maintained results on its annual performance report that meet or exceed the district in which the charter school is located based on the performance standards that are applicable to the grade-level configuration of both the charter school and the district in which the charter school is located in three of the last four school years

⁵³ 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 4(K) - Ongoing Oversight and Evaluation

⁵⁴ Eric Schmitt: [Missouri Sunshine Law: Open Meetings and Records Law](#), OFFICE OF MISSOURI ATTORNEY GENERAL (2019)

⁵⁵ 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 4(D) - Ongoing Oversight and Evaluation

⁵⁶ *Id.*, Standard 6(H) - Renewal, Replication, Expansion, Revocation and Closure Decision Making

⁵⁷ RSMo. §160.405.9(2)(b)



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- The charter school is organizationally and fiscally viable, determining at a minimum that the school does not have:
 - A negative balance in its operating funds
 - A combined balance of less than three percent of the amount expended for such funds during the previous fiscal year; or
 - Expenditures that exceed receipts for the most recently completed fiscal year
- The charter school is in compliance with its legally-binding performance contract and charter law

Sponsors provide each charter school, in advance of the renewal decision, with a cumulative report that summarizes the school's performance over the charter term and compares it to the expectations set forth in the charter contract. The performance report states the sponsor's summary findings and its renewal prospects.⁵⁸

5. Making merit-based decisions on charter school renewals.⁵⁹ Charter sponsors use the information and analysis gathered through the comprehensive school evaluation process to make merit-based decisions on granting charter school renewals.

- **Renewal.** Sponsors grant charter renewals to charter schools that have achieved the performance expectations and corresponding targets stated in the charter contract, are organizationally and fiscally viable, and have been diligent to the terms of the contract and applicable law.
- **Probation.** The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, which may require a change of methodology, a change in leadership, or both. If such plan is unsuccessful, the charter may be revoked.
- **Non-renewal.** In the event that a school has not achieved those expectations, the sponsor can make a decision to non-renew the school's charter. Non-renewal generally leads to school closure.
- **Revocation.** A sponsor has the authority to revoke a charter during the charter term if there is either: a) clear evidence of underperformance as demonstrated in the charter school's annual performance report in three of the last four school years; or, b) a violation of the law or public trust that imperils students or public funds. Revocation constitutes immediate intervention with parameters to close.

In executing all of these responsibilities – from maintaining a new school application process to making data-driven decisions about charter renewals – the charter sponsor is charged with **protecting school autonomy**, the school's ability to self-govern.

⁵⁸ 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 6(B) - Renewal, Replication, Expansion, Revocation and Closure Decision Making

⁵⁹ In some cases, the charter school board, in consultation with the sponsor, may choose to voluntarily relinquish, or give up, the school's charter rather than pursue charter renewal. This action results in school closure.



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Statute dictates that charter contracts are negotiated to clearly articulate the rights and responsibilities of each party regarding school autonomy⁶⁰ and that contract oversight should ensure autonomy under applicable law.⁶¹ Sponsorship Standards are more prescriptive, directing sponsors to “Refrain from directing charter school decisions or choices that are appropriately within a school’s purview under the charter law or contract,”⁶² to “avoid operational interference,”⁶³ and to streamline performance expectations and compliance requirements while “protecting autonomy and minimizing school administrative and reporting burdens.”⁶⁴

Who pays for charter sponsorship? The financial relationship between sponsors and charter schools is structured to preserve charter school autonomy while protecting sponsors’ ability to provide impartial oversight.

Sponsors are not allowed to receive any fees from charter school applicants, nor may they condition consideration of a charter on the promise of future payment of any kind.⁶⁵

To defray the costs associated with sponsorship, the Department of Elementary and Secondary Education retains 1.5 percent of each charter school’s state and local funding, not to exceed \$125,000 annually.⁶⁶ If the sponsor meets its obligations under law, the Department sends these funds to the school’s sponsor.⁶⁷

It must also demonstrate that 90 percent or more of its sponsorship funds are expended in support of its charter school sponsorship program, or as a direct investment in sponsored schools.⁶⁸

What constitutes sponsor “direct investment” in charter schools? As noted above, the financial relationship between sponsors and charter schools is structured to preserve school autonomy while protecting sponsors’ ability to provide impartial, rigorous oversight. According to law, 90 percent or more of these sponsorship funds must be expended in support of the school’s sponsorship program, or as a direct investment in sponsored schools.

Charter law, however, does not define what constitutes “direct investment,” leaving the door open to individual sponsor interpretation as to what this means in practice. For some sponsors it means school support, in which the sponsor plays a hands-on role in providing training and programmatic support to schools they oversee. For others, direct investment is limited to administrative support only.

⁶⁰ RSMo. §160.400.11(3)

⁶¹ RSMo. §160.400.11(4)

⁶² 5 CSR 20-100.260, Standards for Charter Sponsorship, Standard 4 - Ongoing Oversight and Evaluation

⁶³ *Id.* at Standard 4(C) - Ongoing Oversight and Evaluation

⁶⁴ *Id.* at Standard 4(A)3 - Ongoing Oversight and Evaluation

⁶⁵ RSMo. §160.400.6

⁶⁶ Adjusted for inflation

⁶⁷ RSMo. §160.400.11

⁶⁸ RSMo. §160.400.11(1)



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The importance of separating school oversight and school support functions. To protect the integrity of the school oversight function and avoid the potential conflict of interest which results from sponsors evaluating schools for which they also provide technical assistance, the National Association of Charter School Authorizers recommends that school support *not* be part of the charter oversight and accountability function that sponsors provide. Rather, accountability should be limited solely to approving new schools, evaluating them, and determining, upon renewal, whether they should continue to serve students or close.⁶⁹

When school support is provided, it should be provided completely independently of the sponsor's school oversight function, with a firewall between these functions. For example, for one charter sponsor in St. Louis, charter sponsorship is conducted through the institution's Government Affairs office and is entirely separate, both financially and administratively, from school support that other departments at the institution may provide.

IV. CHARTER PUBLIC SCHOOL GOVERNING BOARDS

As self-governing public schools, each charter school has its own governing board. Charter governing boards provide the first layer of oversight and accountability for charter public schools. They are accountable to the charter sponsor for charter school performance.

Charter governing boards are responsible for:

- 1) **Contracting** with the school sponsor
- 2) **Governing the school** in fidelity to the charter contract and in compliance with federal, state, and local laws and regulations

In fulfilling these responsibilities, charter school boards are subject to both charter law and laws governing nonprofit organizations in the state of Missouri. They are also subject to federal law.

Charter Law: Under charter law, charter school boards are accountable both to the charter sponsor and the State Board of Education. Board members are considered decision-making public servants, subject to the laws and regulations that guide the work of public officers and employees.⁷⁰ Charter law also protects schools from conflicts of interest and establishes guidelines for ethical behavior and for addressing conflicts of interest.⁷¹

⁶⁹ Katie Piehl, [What's in a name? Authorizing vs. Sponsorship](#), NATIONAL ASSOCIATION OF CHARTER SCHOOL AUTHORIZERS BLOG (May 21, 2013) (last visited 6/21/21).

⁷⁰ RSMo. §160.400.15

⁷¹ RSMo. §160.400.15: "Charter board members may not hold any office or employment with the school while serving as a governing board member, nor can they have any interest in organizations or entities employed by, or contracting with the school. Board members cannot be employees of companies that provide substantial services to the school."



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Nonprofit Law. Under Missouri nonprofit law, charter schools are legitimate, legal entities and are required to comply with all requirements of Chapter 355, Missouri’s Nonprofit Corporation Law.⁷² Their nonprofit status means that charter boards are self-determining: board members are appointed, not elected.⁷³ It also means that charter boards are subject to Missouri’s Sunshine Law and that charter board meetings, records and deliberations must be open and accessible to the public.⁷⁴

Federal Law. As nonprofit organizations, charter schools also have status as tax-exempt organizations per IRS Code 501(c)(3). The IRS reviews Form 990s filed by tax-exempt organizations⁷⁵ and can bring enforcement actions if a charter school is out of compliance.

1. Contracting with the School Sponsor. The charter contract is a legal contract between the sponsor and the charter school governing board. It is the bedrock of the charter public school model. The charter articulates the rights and responsibilities of each party regarding charter school autonomy, expected outcomes, measures for evaluating success or failure, and performance consequences.⁷⁶

The governing board negotiates the charter contract with the sponsor following approval of the school’s charter application. The board represents the school’s interests in the contract negotiation process, ensuring the expectations laid out in the contract are realistic, achievable and protect the school’s autonomy.⁷⁷

The charter contract is a living document and is monitored by both the governing board and charter sponsor throughout the duration of the charter term. As the school evolves and needs change, the governing board can request to amend the charter, with sponsor approval.⁷⁸

2. Governing the School. The charter governing board is accountable for school performance. After negotiating the charter contract, the board’s job is to ensure the school meets the performance expectations laid out in its charter.

The governing board formulates policy, provides fiscal oversight, and makes operational decisions to support the school in meeting its contractually-obligated performance expectations.⁷⁹ This includes recruiting, hiring, and holding school leadership accountable for day-to-day school leadership.

⁷² RSMo. §355.001 *et seq.*

⁷³ RSMo. §160.400.8: “As a nonprofit corporation incorporated pursuant to chapter 355, the charter school shall select the method for election of officers pursuant to section 355.326 based on the class of corporation selected.”

⁷⁴ RSMo. §610.011: “It is the public policy of this state that meetings, records, votes, actions and deliberations of public governmental bodies be open to the public unless otherwise provided by law.”

⁷⁵ Form 990 is an IRS form that provides the public with financial information about a nonprofit organization

⁷⁶ 5 CSR 20-100.260, Standards for Charter Sponsorship: Standard 3 - Charter Contract

⁷⁷ RSMo. §160.405.1(2): As self-governing schools, charter boards have the flexibility to determine “the nature and extent of parental, professional educator, and community involvement in the governance and operations of the charter school.”

⁷⁸ RSMo. §160.405.6

⁷⁹ RSMo. §160.405.1(2)



The board communicates regularly with the charter sponsor throughout the contract duration. Contract violations, performance deficiencies or mandated interventions are communicated directly to the board by the charter sponsor.⁸⁰

Charter law also specifies that the sponsor, governing board and charter school staff jointly review the school's performance, management and operations during the first year of school operations and then every other year. A joint performance review must also be conducted at any point where the operation or management of the school changes or is transferred to another entity.⁸¹

Finally, charter governance boards are required, under law, to make information about the school and its performance available to parents and community members within the school district in which it operates. By law, a charter school must make available for public inspection, and provide upon request: 1) the school's charter; 2) its most recent annual performance report card; 3) the results of background check on the charter board's members; and, 4) if a charter school is operated by a management company, a copy of the written contract between the governing board and the educational management organization or charter management organization.⁸²

Charter governance boards carry out all of these responsibilities in compliance with federal, state, and local laws, and in fidelity to the charter contract itself.

CONCLUSION

The idea of school-level accountability is one of chartering's most significant contributions to public schooling. No charter public school has the "right" to operate in perpetuity; rather, a school must "earn" the right to stay open by demonstrating, through evaluations conducted at regular intervals, that it is meeting the performance expectations outlined in its charter, or contract.

This MCPSA White Paper on Charter School Accountability is intended to provide a fact-based, high-level overview of the key roles and responsibilities of different actors in holding Missouri charter public schools accountable. It is also intended to provide greater access to state law and regulations for those interested in learning more about Missouri charter public schools and the statutes and rules which govern them.

As the paper illustrates, Missouri's charter school accountability landscape is multi-layered, with the State Legislature, the State Board of Education, charter sponsors, and charter school governing boards each playing distinct roles in holding schools accountable. These multiple layers of oversight help ensure that Missouri's charter public schools continue to deliver value to Missouri students and taxpayers.

⁸⁰ 5 CSR 20-100.260, Standards for Charter Sponsorship: Standard 4(D) – Ongoing Oversight and Evaluation

⁸¹ RSMo. §160.405.6

⁸² RSMo. §160.410.4



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The Missouri Charter Public Schools Association believes that cultivating a better understanding of the role of accountability in the charter school model is essential both to fostering a strong accountability environment and protecting charter schools' ability to self-govern. As charter public schools in Missouri enter their third decade of operation, and as charter enrollment in our state continues to grow, both strengthening accountability and protecting autonomy will be critical to ensuring that charter schools continue to deliver on the promise of this innovative public school model.

Please direct related inquiries to Doug Thaman, MCPSA Executive Director, at dthaman@mocharterschools.org.



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APPENDIX

- Public School Laws of Missouri - <https://revisor.mo.gov/main/OneChapter.aspx?chapter=160>
- Code of State Regulations, Department of Elementary and Secondary Education - <https://www.sos.mo.gov/adrules/csr/current/5csr/5csr>